Lobenfeld, Eric J.

From: Lobenfeld, Eric J.
Sent: Friday, February 29, 2008 2:19 PM
To: mak@kramerlawip.com
Cc: Lobenfeld, Eric J.; Capoccia, Rachel M.
Subject: Sorensen v. Motorola
Attachments: 1074859_1.DOC

Ms. Kramer - further to my earlier email, attached is a revised joint stipulation to stay the case, which incorporates certain language Judge Moskowitz included in his orders stating the Giant International and Helen of Troy cases. Please let me know if this proposal is acceptable to Sorensen. thanks.

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Draft of 3/29/08 PM

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rmcapoccia@hhlaw.com

Attorneys for Defendant MOTOROLA, INC.

UNITED STATES DISTRICT COURT
FOR THE SOUTHER DISTRICT OF CALIFORNIA

JENS ERIK SORENSEN, as trustee of SORENSEN RESEARCH AND DEVELOPMENT TRUST, Plaintiff, v. MOTOROLA, INC., a Delaware corporation; and DOES 1 - 100, Defendants.	Case No. Case No. 08cv136 BTM (CAB) **JOINT MOTION AND STIPULATION FOR STAY**

WHEREAS, the above-captioned action is one of a number of actions instituted in this and other courts by Plaintiff Jens Erik Sorensen, as Trustee of Sorensen Research and Development Trust ("Sorensen"), for alleged infringement of United States Letters Patent No. 4,935,184 (the "'184 Patent"), and;

WHEREAS the '184 Patent is currently the subject of reexamination proceedings (the "Reexamination") in the United States Patent and Trademark Office, and;

WHEREAS, by Order dated September 10, 2007, (the "Order") this Court has already stayed pending resolution of the Reexamination the action entitled Sorensen v. Black & Decker Corp. et al., Case No. 06cv1572 BTM (CAB) ("Black & Decker") which asserts alleged infringement of the '184 Patent; and

WHEREAS, for the same reasons enunciated by the Court in the Order, Sorensen and defendant Motorola, Inc. ("Motorola") wish to conserve the resources of the parties and the Court while the Reexamination is pending.

NOW, THEREFORE, Sorensen and Motorola, by and through their respective counsel, hereby stipulate to and jointly move the Court as follows:

1. The above-captioned case is hereby stayed until the earlier of:

   a. The final resolution of the Reexamination, or

   b. The lifting of the stay in Black & Decker.

2. Plaintiff may move to vacate the stay if it appears that the reexamination will not be effected within a reasonable time.

3. Any party may apply to the Court for an exception to the stay if it has specific, valid reasons to believe that it needs to obtain discovery in order to preserve evidence that will otherwise be unavailable after the stay.

The parties have authorized electronic signatures for purposes of this Joint Motion and Stipulation.

DATED this ______ of March, 2008.

JENS ERIK SORENSEN, as Trustee of SORENSEN RESEARCH AND DEVELOPMENT TRUST, Plaintiff

____
Melody A. Kramer
J. Michael Kaler
Attorneys for Plaintiff

MOTOROLA, INC., Defendant

____
Rachel M. Capoccia
Attorneys for Defendant

Lobenfeld, Eric J.

From: mak@kramerlawip.com
Sent: Tuesday, March 04, 2008 12:45 PM
To: Lobenfeld, Eric J.
Cc: michael@kalerlaw.com
Subject: RE: Sorensen v. Motorola

Dear Mr. Lobenfeld:

Based on recent developments, we would like to postpone finalizing any stipulation for stay for another 30 days. Based upon comments by Judge Moskowitz (see transcript attached), the recent orders for stay in the Sorensen v. Helen of Troy, and Sorensen v. Giant cases, and additional evidence reflected, in part, in our opposition to stay in the Sorensen v. Energizer case (see attached), the nature and scope of any stay of this matter is in question. Therefore, it would be prudent to wait for Judge Moskowitz' ruling on the Energizer request for stay before we agree on a stipulation.

Plaintiff is therefore willing to extend Motorola's deadline for filing a responsive pleading until April 10th. Please confirm whether Motorola is amenable to this extension.

Sincerely,

Melody A. Kramer

> ----- Original Message -----
> From: "Lobenfeld, Eric J."
> To: mak@kramerlawip.com
> Subject: RE: Sorensen v. Motorola
> Date: Tue, 4 Mar 2008 10:14:30 -0500
>
> No problem; thanks.
>
> ERIC J. LOBENFELD, PARTNER
> HOGAN & HARTSON LLP
> 875 Third Avenue, New York, NY 10022
> direct +1.212.918.8202 | tel +1.212.918.3000 | fax +1.212.918.3100
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>
> ---
>
> **From:** mak@kramerlawip.com [mailto:mak@kramerlawip.com]
> **Sent:** Tuesday, March 04, 2008 9:59 AM
> **To:** Lobenfeld, Eric J.

Subject: Re: Sorensen v. Motorola

Mr. Lobenfeld, my sincere apologies for the delay. I am hoping to have that out to you today.

----- Original Message -----
From: "Lobenfeld, Eric J."
To: mak@kramerlawip.com
Subject: Sorensen v. Motorola
Date: Tue, 4 Mar 2008 09:39:15 -0500

Ms. Kramer - I would appreciate a response to the revised Joint Motion and Stipulation for Stay that I sent you last week, so that I can avoid, if possible, having to file motion papers. Thanks.

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Lobenfeld, Eric J.

From: Lobenfeld, Eric J.
Sent: Tuesday, April 01, 2008 2:16 PM
To: mak@kramerlawip.com
Cc: Lobenfeld, Eric J.
Subject: Sorensen v. Motorola
Attachments: 1074859_1.DOC

Melody - when we last discussed the possibility of Sorensen stipulating to a stay in this case, you indicated that something may occur in one or more of the other cases that could influence your decision. Thus, we stipulated to extend Motorola's time to respond to the complaint by 30 days. I understand that Judge Moskowitz has now entered stays in 2 more cases, including the Energizer case in which you had submitted some statistics which you thought could lead the Court not to stay that case.

Given the 2 recent stays, I frankly see no basis for Sorensen not to stipulate to a stay in the form annexed hereto. Please let me know your position.

Thanks.

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Telephone: (858) 362-3151
michael@kalerlaw.com

Attorneys for Plaintiff JENS ERIK SORENSEN, as Trustee of SORENSEN RESEARCH AND DEVELOPMENT TRUST

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ejlobenfeld@hhlaw.com

Attorneys for Defendant MOTOROLA, INC.

UNITED STATES DISTRICT COURT
FOR THE SOUTHER DISTRICT OF CALIFORNIA

JENS ERIK SORENSEN, as trustee of SORENSEN RESEARCH AND DEVELOPMENT TRUST, Plaintiff, v.	Case No. Case No. 08cv136 BTM (CAB) **JOINT MOTION AND STIPULATION FOR STAY**

MOTOROLA, INC., a Delaware corporation;)
and DOES 1 - 100,)
)
Defendants.)
_______________________________________)

WHEREAS, the above-captioned action is one of a number of actions instituted in this and other courts by Plaintiff Jens Erik Sorensen, as Trustee of Sorensen Research and Development Trust ("Sorensen"), for alleged infringement of United States Letters Patent No. 4,935,184 (the "'184 Patent"), and;

WHEREAS the '184 Patent is currently the subject of reexamination proceedings (the "Reexamination") in the United States Patent and Trademark Office, and;

WHEREAS, by Order dated September 10, 2007, (the "Order") this Court has already stayed pending resolution of the Reexamination the action entitled Sorensen v. Black & Decker Corp. et al., Case No. 06cv1572 BTM (CAB) ("Black & Decker") which asserts alleged infringement of the '184 Patent and has also stayed other actions in this Court alleging such infringement; and

WHEREAS, for the same reasons enunciated by the Court in the Order and subsequent stay orders, Sorensen and defendant Motorola, Inc. ("Motorola") wish to conserve the resources of the parties and the Court while the Reexamination is pending.

NOW, THEREFORE, Sorensen and Motorola, by and through their respective counsel, hereby stipulate to and jointly move the Court as follows:

1. The above-captioned case is hereby stayed until the earlier of:

a. The final resolution of the Reexamination, or

b. The lifting of the stay in Black & Decker.

2. Plaintiff may move to vacate the stay if it appears that the reexamination will not be effected within a reasonable time.

3. Any party may apply to the Court for an exception to the stay if it has specific, valid reasons to believe that it needs to obtain discovery in order to preserve evidence that will otherwise be unavailable after the stay.

The parties have authorized electronic signatures for purposes of this Joint Motion and Stipulation.

DATED this ______ of April, 2008.

JENS ERIK SORENSEN, as Trustee of SORENSEN RESEARCH AND DEVELOPMENT TRUST, Plaintiff

____
Melody A. Kramer
J. Michael Kaler
Attorneys for Plaintiff

MOTOROLA, INC., Defendant

____
Rachel M. Capoccia
Eric J. Lobenfeld
Attorneys for Defendant

Lobenfeld, Eric J.

From: mak@kramerlawip.com
Sent: Tuesday, April 01, 2008 3:44 PM
To: Lobenfeld, Eric J.
Cc: Lobenfeld, Eric J.
Subject: Re: Sorensen v. Motorola

Eric,

Based upon the information in our possession, we do not believe that a stay of this case is appropriate. I understand your position, but don't agree with it.

I recommend that we proceed to resolve this matter between our respective clients, rather than postponing dealing with the issues at hand.

I look forward to hearing from you further.

Melody Kramer

> ----- Original Message -----
> From: "Lobenfeld, Eric J."
> To: mak@kramerlawip.com
> Subject: Sorensen v. Motorola
> Date: Tue, 1 Apr 2008 14:15:58 -0400
>
> Melody - when we last discussed the possibility of Sorensen stipulating to a stay in this case, you indicated that something may occur in one or more of the other cases that could influence your decision. Thus, we stipulated to extend Motorola's time to respond to the complaint by 30 days. I understand that Judge Moskowitz has now entered stays in 2 more cases, including the Energizer case in which you had submitted some statistics which you thought could lead the Court not to stay that case.
>
> Given the 2 recent stays, I frankly see no basis for Sorensen not to stipulate to a stay in the form annexed hereto. Please let me know your position.
>
> Thanks.
>
> ERIC J. LOBENFELD, PARTNER
> HOGAN & HARTSON LLP
> 875 Third Avenue, New York, NY 10022
> direct +1.212.918.8202 | tel +1.212.918.3000 | fax +1.212.918.3100
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Lobenfeld, Eric J.

From: Lobenfeld, Eric J.
Sent: Tuesday, April 01, 2008 3:52 PM
To: mak@kramerlawip.com
Cc: Lobenfeld, Eric J.
Subject: RE: Sorensen v. Motorola

Melody - May I ask what information you have that makes this case different from the others? Absent some significant difference you share with me, we will proceed to answer and to file a motion to stay. Candidly, and without meaning to offend, we will ask for costs and attorneys' fees since there seems to be no need for such a motion given the Judge's rulings in the other cases.

Thx.

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ejlobenfeld@hhlaw.com | http://www.hhlaw.com

From: mak@kramerlawip.com [mailto:mak@kramerlawip.com]
Sent: Tuesday, April 01, 2008 3:44 PM
To: Lobenfeld, Eric J.
Cc: Lobenfeld, Eric J.
Subject: Re: Sorensen v. Motorola

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I look forward to hearing from you further.

Melody Kramer

----- Original Message -----

From: "Lobenfeld, Eric J."
To: mak@kramerlawip.com
Subject: Sorensen v. Motorola
Date: Tue, 1 Apr 2008 14:15:58 -0400

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Lobenfeld, Eric J.

From: mak@kramerlawip.com
Sent: Tuesday, April 01, 2008 5:01 PM
To: Lobenfeld, Eric J.
Cc: michael@kalerlaw.com
Subject: RE: Sorensen v. Motorola

Eric - Judge Moskowitz has indicated that a stay of 2 years is "long enough" and that an estimated 5 years would be too long. One of the '184 reexaminations is over 8 months old and no office action has yet issued. The second reexamination is three months old and will likely be merged with, thus slowing down, the first reexamination. Furthermore, if you do some research regarding the average pendency of reexamination proceedings, you will find that they extend much longer than two years.

If you believe that the reexaminations will be completed by July 2009, please advise me of the basis for that belief.

Melody

----- Original Message -----
From: "Lobenfeld, Eric J."
To: mak@kramerlawip.com
Subject: RE: Sorensen v. Motorola
Date: Tue, 1 Apr 2008 15:51:59 -0400

Melody - May I ask what information you have that makes this case different from the others? Absent some significant difference you share with me, we will proceed to answer and to file a motion to stay. Candidly, and without meaning to offend, we will ask for costs and attorneys' fees since there seems to be no need for such a motion given the Judge's rulings in the other cases.

Thx.

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Melody Kramer

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Date: Tue, 1 Apr 2008 14:15:58 -0400

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